



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,718	11/12/1999	JEFFERY M. ENRIGHT	D-1113	2011

28995 7590 12/18/2001

RALPH E. JOCKE
231 SOUTH BROADWAY
MEDINA, OH 44256

EXAMINER

CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
2162	

DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

AC

Office Action Summary	Application No.	Applicant(s)
	09/439,718	ENRIGHT, JEFFERY M.
	Examiner	Art Unit
	Donald L. Champagne	2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 August 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-39 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-39 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103 and 35 USC § 102

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
4. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. in view of Gatto.
5. Phillips et al. teaches (independent method claim 1 and apparatus dependent claim 27) a method and apparatus, the method comprising : a) paying a charge for motor fuel first goods (merchandise) delivered to a user at a self-service dispensing machine, including reading a credit card (col. 1 line 12 and col. 3 lines 38-39); b) receiving an input from the user through an input device adjacent the dispensing machine, wherein the input corresponds to a request for a second good, and c) charging the credit card for the charge and the second good (col. 3 lines 39-40); d) outputting a receipt usable for dispensing the second goods from the seconds goods dispensing apparatus (col. 3 lines 41-42), which reads on communicating information representative of the request for the second good to a facility

Art Unit: 2162

including a supply for the second good, and e) delivering the second good from the supply after the user arrives at the facility.

6. Phillips et al. does not teach that the facility is remote from the machine. However, Phillips et al. does teach (col. 3 lines 42-54) that is desirable to attract customers into a mini-market at the vehicle fueling facility, which reads on a facility remote from the machine. Because of this suggestion to improve sales, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to place the second goods dispensing apparatus in the mini-market facility remote from the machine.
7. Phillips et al. does not teach that the second good is an amount of cash. Gatto teaches a second good that is an amount of cash (col. 1 line 30 and col. 6 lines 25-26). Because dispensing cash could be expected to increase store traffic and therefore sales, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to dispense cash-back in the mini-market facility remote from the machine.
8. At the reference points given above, Phillips et al. does teach claims 2, 3, 12, 13, 20 and 22-24.
9. Phillips et al. also teaches: (claims 4-6, 18, 19, 28-32 and 37) that the receipt is printed with a bar code (col. 9 lines 38-58) and (claims 7 and 8) the receipt reader (col. 9 line 28-37) is operatively connected to the second goods dispenser, which inherently would have to be loaded from a larger supply; (claims 9 and 21) displays for prompting a customer (col. 5 lines 53-60); and (claims 10 and 11) conventional credit-card accounting mechanisms (col. 2 lines 2-10).
10. Phillips et al. does not teach (claims 14-17 and 33-35) a debit or stored value cards, and receiving a further input corresponding to the user. Gatto teaches debit and stored value cards (col. 3 lines 26 and 44-45). Because these cards facilitate sales, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add this teaching of Gatto to those of Phillips et al. Gatto also teaches receiving a further input corresponding to the user (col. 4 lines 8-12 and 34-37). Because this further input is solicited to either enhance security or elucidate user preference, either of which can be expected to enhance the business, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to also add this teaching of Gatto to those of Phillips et al.

Art Unit: 2162

11. Neither of the references teach (claims 25, 26 and 36) that the facility includes a service window and that the further input corresponds to a feature of the user's vehicle. Official notice is taken (MPEP § 2144.03) that these limitations were common, at the time of the instant invention. A drive-up service window would be especially attractive as a customer convenience feature at a facility dispensing motor fuel and small items such as cash. "Speed passes" and similar vehicular identifiers also provide the customer with obvious convenience, and therefore support the business.

12. Claims 38 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Phillips et al. Phillips et al. teaches (independent claim 38): a) accepting an amount of cash for the merchandise (col. 27 lines 22-39); b) generating a code for the amount of change (col. 3 lines 13-22); c) outputting the code on a receipt and d) paying a second charge by inputting the code (col. 3 lines 41-42). The receipt reads on indicia representative of the code (claim 39).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 703-308-3331. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications may be sent directly to the examiner at 703-746-5536.
14. The examiner's supervisor, Eric Stamber, can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular official communications and 703-746-7238 for After Final official communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.
15. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov.

Application/Control Number: 09/439,718
Art Unit: 2162

Page 5

At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.



Donald L. Champagne
Examiner
Art Unit 2162

15 December 2001